

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

DOCKET NO. 3:08-cv-00042-FDW

DAMIAN VECCHIO,

Plaintiff,

vs.

PSA AIRLINES, INC.,

Defendant.

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ORDER

THIS MATTER comes now before the Court upon Defendant's Motion to dismiss Count I of Plaintiff's Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). Count I alleges a violation of 42 U.S.C. § 1983, which "provides a federal cause of action to those whose constitutional rights are violated by a state or local government actor." Banks v. Jefferson-Smurfit, 176 F. Supp. 2d 499, 506 (M.D.N.C. 2001). Defendant, however, is a private corporation organized under the laws of North Carolina. (See Compl. at 1; Def.'s Mem. at 2-3.) Plaintiff's counsel has communicated with Chamber's staff telephonically and is not apposed to the dismissal of Count I. Therefore, Defendant's Motion is GRANTED and Count I is hereby DISMISSED.

IT IS SO ORDERED.

Signed: March 18, 2008



Frank D. Whitney
United States District Judge

